



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R4–ES–2019–0047; FXES11130400000EA–123–FF04EF1000]**

**Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Scrub-Jay and Eastern Indigo Snake, Volusia County, FL; Categorical Exclusion**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments and information.

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce receipt of an application from Duke Energy Florida, LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed scrub-jay and eastern indigo snake incidental to construction in Volusia County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP) and the Service's preliminary

determination that this HCP qualifies as “low-effect,” categorically excluded, under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for review.

**DATES:** We must receive your written comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

**ADDRESSES:** *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS–R4–ES–2019–0047 at <http://www.regulations.gov>.

*Submitting Comments:* If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2019–0047.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2019–0047, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Erin M. Gawera, by telephone at (904) 731–3121 or via email at [erin\\_gawera@fws.gov](mailto:erin_gawera@fws.gov).

**SUPPLEMENTARY INFORMATION:** We, the Fish and Wildlife Service (Service),

announce receipt of an application from Duke Energy Florida, LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed scrub-jay (*Aphelocoma coerulescens*) and eastern indigo snake (*Drymarchon couperi*) incidental to the construction of a solar power plant (project) in Volusia County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP) and the Service's preliminary determination that this HCP qualifies as "low-effect," categorically excluded, under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

## **Project**

The applicant requests a 10-year ITP to take the scrub-jay and eastern indigo snake incidental to the conversion of approximately 13.45 acres of occupied scrub-jay and 307.1 acres of occupied snake foraging and sheltering habitat for the construction of a solar power plant located on a 916.2-acre parcel, Parcel ID numbers 8029000000050, 8028000000020, 8020000000030, 8020000000070, 8020000000050, 8020000000060, 8021000000010, 8021000000080, 8021000000012, 8020000000020, 8020000000010, and 8016000000032, in Sections 16, 17, 20, 21, 28, 29, 32, and 33, Township 18 South, Range 30 East, Volusia County, Florida. The applicant proposes to mitigate for take of the scrub-jay through the contribution of \$412,296.30 to the Florida Scrub-jay Conservation Fund administered by The Nature Conservancy and to mitigate for take of the eastern

indigo snake through a contribution of \$50,000.00 to the Wildlife Foundation of Florida's Eastern Indigo Snake Conservation Fund.

### **Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made available to the public. While you may request that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### **Our Preliminary Determination**

The Service has made a preliminary determination that the applicant's project, including land clearing, infrastructure building, landscaping, and the proposed mitigation and minimization measures, would individually and cumulatively have a minor or negligible effect on the scrub-jay, the eastern indigo snake, and the environment.

Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources.

### **Next Steps**

The Service will evaluate the application and the comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number TE 21556D-0 to Duke Energy Florida, LLC.

**Authority**

The Service provides this notice under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulation 40 CFR 1506.6.

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**Jay B. Herrington,  
Field Supervisor,  
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Southeast Region.**

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